AMENDMENT TO DRAWINGS:

The attached sheets of replacement drawings make no substantive changes to the originally-filed drawings, but rather place the drawings in formal format. In particular, the replacement drawings for Figs. 1 and 2 remove the phrase "Application No. 01-409" from the margins of these drawing sheets.

Attachments: Submission of Replacement Drawings
Replacement Drawing Sheets (Two sheets)

REMARKS

In the Office Action mailed September 13, 2004, the Examiner objected to Figs. 1 and 2 and rejected claims 1-27 under 35 U.S.C. § 103(a) as being unpatentable over *Contos et al.* (U.S. Patent No. 6,529,784) in view of *Lee et al.* (International Application No. WO 97/46932).

By this amendment, Applicants have amended claims 1-4, 6-9, 12, 13, 19-23, 26, and 27 and file a Submission of Replacement Drawings with this Amendment. The amendments to the claims and drawings do not introduce new matter. In light of the foregoing amendments and based on the following arguments, Applicants respectfully traverse the Examiner's objection to Figs. 1 and 2 and the rejections of claims 1-27 under 35 U.S.C. § 103(a).

I. The Objection to the Drawings

The Examiner objects to Fig. 2 for "missing a description for #320 in the Specification." (Office Action, page 2, ¶ 3.) Applicants disagree with the Examiner's position because Applicants' specification does provide a description for Step 320 illustrated in Fig. 2. Indeed, the Examiner refers to the paragraph in the specification providing such description. As stated in Applicants' specification on page 12, "[h]owever, if at the end of the time delay, the owner has not responded to the initial notification of the critical update, a second notification is provided to the owner, as seen in control block 320, via the same or similar notification method used in control block 310." (Specification, page 12, ¶ [34], lines 5-8.) Accordingly, Applicants submit that the

specification does provide adequate support for Step 320 shown in Fig. 2. As such, Applicants respectfully request that the Examiner withdraw the objection to this figure.

Further, the Examiner objects to Figs. 1 and 2 for having "Application No. 01-409" in the margin. Accordingly, Applicants submit concurrently herewith a Submission of Replacement Drawings to address the Examiner's concerns. The replacement drawings make no substantive changes to the originally-filed drawings, but rather place Figs. 1 and 2 in formal format. In particular, the replacement drawings for Figs. 1 and 2 remove the phrase "Application No. 01-1409" from the margins of these drawing sheets. Based on the Submission, Applicants request that the objections to Figs. 1 and 2 be withdrawn.

II. The Rejections Under 35 U.S.C. § 103(a)

To establish a prima facie case of obviousness, three basic criteria must be met. First, the prior art reference or references, taken alone or combined, must teach or suggest each and every element recited in the claims. See M.P.E.P. § 2143.03. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention. See M.P.E.P. § 2143. Third, a reasonable expectation of success must exist. See M.P.E.P. § 2143.02. Moreover, each of these requirements must "be found in the prior art, and not based on applicant's disclosure." M.P.E.P. § 2143. Applicants respectfully traverse the rejection of claims 1-27 under 35 U.S.C. § 103(a) as unpatentable because the Examiner has failed to establish a *prima facie* case of obviousness.

For instance, the Examiner asserts that *Cantos et al.* teaches "updating software installed on a machine, the machine having at least one non-volatile memory for storing the software," and "a remote communications system operably connected to said remote processor, said remote communications system receiving said available updates from said remote processor and relaying said available updates to said machine for storage in said non-volatile memory." (Office Action, page 3, ¶ 6.) Claim 1, as amended, recites,

> updating software installed on a work machine, the machine having at least one non-volatile memory for storing the software, . . . and a remote communications system operably connected to said remote processor, said remote communications system receiving said available updates from said remote processor and relaying said available updates to said work machine for storage in said non-volatile memory.

As such, amended claim 1 now recites that the "machine" is a "work machine." In contrast, *Cantos et al.* describes a control server for monitoring computer systems. In particular, the control server described by *Cantos et al.* performs processes for managing "hardware or software configuration of the target computer systems." (*Cantos et al.*, col. 3, lines 6-7.) A work machine is distinguishable from the target computers implemented by *Cantos et al.* A work machine is associated with machines such as, track-type tractors, graders, pavers, or the like. *See* Applicants' specification, page 5, ¶ [17]. In contrast, *Cantos et al.* states that the "term target computers is not limited solely to computers per se and may include, without limitation, other processor-based devices or network communicating hardware components, such as printers, servers, terminals, copiers, fax machines, mobile/wireless telephones and Internet telephones." (*Cantos et al.*, col. 3, lines 15-20.) Accordingly, *Cantos et al.* does not

teach or suggest a system for updating software installed on a work machine having at least one non-volatile memory for storing the software. Instead, the systems and methods implemented by *Cantos et al.* are directed to configuring target computers, such as copiers, printing systems, fax machines, telephones, and other types of non-work machine related systems. Further, *Cantos et al.* does not suggest that the target computers are implemented with a work machine.

Lee et al. fails to make up for the deficiencies of *Cantos et al.* *Lee et al.* discloses server systems that perform processes for modifying the configuration of client systems interconnected by a communication network. *Lee et al.* states that its client systems "could be any type of computer including a personal assistant, palmtop, laptop, personal, workstation, mini, mainframe, or massively parallel computers." (*Lee et al.*, page 4, lines 34-36.) *Lee et al.* does not suggest that the client systems are implemented with a work machine.

Based on the foregoing, *Cantos et al.* and *Lee et al.*, alone or in combination, fail to teach or suggest a system for updating software installed on a work machine having at least one non-volatile memory for storing the software and a remote communications system receiving said available updates from said remote processor and relaying said available updates to the work machine for storage in the non-volatile memory, as recited in amended claim 1. As such, Applicants respectfully request that the Examiner withdraw the rejection of claim 1 under 35 U.S.C. § 103(a) and allow the claim.

Claims 2-11 depend from claim 1. As explained, *Cantos et al.* and *Lee et al.*, alone or in combination, fail to teach or suggest the recitations of claim 1. Accordingly, these references also fail to teach or suggest the recitations of claims 2-11 for at least

the same reasons set forth in connection with claim 1. As such, Applicants respectfully request that the Examiner withdraw the rejection of claims 2-11 under 35 U.S.C. 103(a) and allow the claims.

Independent claims 12 and 26 include recitations similar to those of claim 1. For instance, claim 12 recites,

> [a] method for remotely updating software installed on a work machine, the work machine having at least one non-volatile memory for storing the software, comprising . . . relaying said available update from said remote data storage system to said work machine; and installing said available update in said non-volatile memory.

Claim 26 recites,

> [a] system for updating software installed on a work machine, the work machine having at least one non-volatile memory for storing the software, comprising . . . means for remotely communicating with the work machine to relay said available updates to the work machine for storage in said non-volatile memory.

As explained above in connection with claim 1, *Cantos et al.* and *Lee et al.*, alone or in combination, fail to teach or suggest such features. Accordingly, these references also fail to teach or suggest the recitations of independent claims 12 and 26 for at least the same reasons set forth in connection with claim 1. As such, Applicants respectfully request that the Examiner withdraw the rejection of claims 12 and 26 under 35 U.S.C. 103(a) and allow the claims.

Claims 12-25 and 27 depend from claims 12 and 26, respectively. As explained, *Cantos et al.* and *Lee et al.*, alone or in combination, fail to teach or suggest the recitations of claims 12 and 27. Accordingly, these references also fail to teach or suggest the recitations of claims 12-25 and 27 for at least the same reasons set forth in connection with claims 12 and 26. As such, Applicants respectfully request that the

Examiner withdraw the rejection of claims 12-25 and 27 under 35 U.S.C. 103(a) and allow the claims.

III. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of claims 1-27.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

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Dated: December 13, 2004

By: _____
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